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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,422	10/23/2003	Douglas Thai	PAT-1336CIP-CON	8371

7590 06/12/2008  
Raymond Sun  
Law Offices of Raymond Sun  
12420 Woodhall Way  
Tustin, CA 92782

EXAMINER
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HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3781

MAIL DATE	DELIVERY MODE
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06/12/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/692,422	<b>Applicant(s)</b> THAI, DOUGLAS	
	<b>Examiner</b> ROBIN HYLTON	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22,23,25-29,31,34,35,40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22,23 and 25-29 is/are allowed.
- 6) ☒ Claim(s) 31,34,35,40 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 7, 2008 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. Claims 31, 34, 35, 40, and 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the disclosure for a container comprising a container body, a top wall having two openings, a tube extending from each of the two openings, a wand having a shaft and extending through each tube, and bubble solution in the container. The independent claims (34 and 35) do not set forth a structure to use the container for removing the bubble solution. The dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

3. Claims 31, 34, 35, 40 and 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The

Art Unit: 3781

independent claims do not set forth structure for use the claimed invention for removing bubble solution contained in the container, particularly by a child. The dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

4. Claims 31, 34, 35, 40, and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

The independent claims do not provide structure for a child to safely remove the bubble solution from the container. How does a shaft remove the bubble solution?

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

#### ***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 31, 34, 35, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Little Kids Original No-Spill® Bubble Tumbler®.

The Little Kids container discloses a container body having an inner chamber, a bottom wall, a top wall, an opening provided in the top wall, a tube extending from the opening into the inner chamber to provide communication between the inner chamber and the exterior of the container body, with the container body including bubble solution therein; and the container body including a lower body that receives liquid therein and having the bottom wall and an open

Art Unit: 3781

upper mouth; and an upper body having the top wall and an open lower mouth, the upper body being removably connected to the lower body with the open mouths thereof in communication with each other to form the inner chamber. The Little Kids container is silent regarding a plurality of openings, downwardly extending tubes and wands.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an additional and duplicate opening, tube extending therefrom and a wand inserted therein, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. Additionally, to space the two openings, tubes and shafts offset from the center of the inner chamber would be obvious so as to allow at least two children to simultaneously use the non-spill container, interact, and blow bubbles without having to take turns.

The opening and shaft of the wand are of a curved cross section to the degree claimed and wherein a circular opening and shaft are curved. Wherein it can be argued the opening and shaft are not curved, it would have been obvious one of ordinary skill in the art at the time of the invention to make the opening and shaft curved in cross section as an obvious matter of design choice as a change in shape.

7. Claims 31, 34, 35, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Little Kids Original No-Spill® Bubble Tumbler® in view of Patterson.

The Little Kids container discloses a container body having an inner chamber, a bottom wall, a top wall, an opening provided in the top wall, and a wand having a ring at one end thereof, wherein the container body including bubble solution therein; and the container body including a lower body that receives liquid therein and having the bottom wall and an open upper mouth; and an upper body having the top wall and an open lower mouth, the upper body

Art Unit: 3781

being removably connected to the lower body with the open mouths thereof in communication with each other to form the inner chamber. The Little Kids container is silent regarding a plurality of openings, downwardly extending tubes and wands.

Patterson discloses it is known to provide a tube extending from the top wall opening into an inner chamber to provide communication between the inner chamber and the exterior of a container body. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a tube extending from the opening into the inner chamber to provide communication between the inner chamber and the exterior of the container body to the container of the Little Kids container. Doing assists with the spill resistance of the container.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an additional and duplicate opening, tube extending therefrom and a wand inserted therein, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. Additionally, to space the two openings, tubes and shafts offset from the center of the inner chamber would be obvious so as to allow at least two children to simultaneously use the non-spill container, interact, and blow bubbles without having to take turns.

The opening and shaft of the wand are of a curved cross section to the degree claimed and wherein a circular opening and shaft are curved. Wherein it can be argued the opening and shaft are not curved, it would have been obvious one of ordinary skill in the art at the time of the invention to make the opening and shaft curved in cross section as an obvious matter of design choice as a change in shape.

Art Unit: 3781

8. Claim 31, 34, 35, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patterson (US 5,105,975) in view of Lin (US 6,132,125).

Patterson discloses a container comprising a container body (10) having an inner chamber, a bottom wall (16), a top wall (32), an opening (34) provided in the top wall, and a tube (42) extending from the opening into the inner chamber to provide communication between the inner chamber and the exterior of the container body, wherein the container body includes a lower body (12) that receives liquid therein and having the bottom wall and an open upper mouth and an upper body (14) having the top wall and an open lower mouth, the upper body being removably connected to the lower body with the open mouths thereof in communication with each other to form the inner chamber. The opening is of a curved cross section to the degree claimed and wherein a circular opening is curved. Patterson does not teach the container body including bubble solution therein and a stopper positioned inside the tube, the stopper having a shaft having a first end and a second end, with a serrated ring provided at the first end and a support section provided at the second end. Patterson does not teach two openings with a wand within each.

Lin teaches a container having tube (11') extending through an opening, the tube having bubble solution therein and a stopper positioned inside thereof, the stopper having a shaft (32') having a first end and a second end, with a serrated ring (33') provided at the first end and a support section provided at the second end, wherein a lining (311') is provided around a portion of the support section and is received inside the tube. The shaft is of a curved cross section to the degree claimed and wherein a circular shaft is curved.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the container of Patterson as a bubble solution container by applying the teaching of bubble solution in the container inner chamber and utilizing a stopper as taught by

Art Unit: 3781

Lin to the container of Patterson. Doing so is an alternative use of the container and provides a non-spill bubble container for children's entertainment.

Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an additional and duplicate opening, tube extending downwardly therefrom and a wand inserted therein, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. Additionally, to space the two openings, tubes and shafts offset from the center of the inner chamber would be obvious so as to allow at least two children to simultaneously use the non-spill container, interact, and blow bubbles without having to take turns.

***Allowable Subject Matter***

9. Claims 22, 23, and 25-29 are allowed over the art of record.

***Response to Arguments***

10. Applicant's arguments with respect to claims 31, 34, 35, 40, and 41 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any



Art Unit: 3781

amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Provencio and Ryo both teach dual openings offset from a center of the cap top wall.

13. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

14. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature\_\_\_\_\_

Date\_\_\_\_\_

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have

Art Unit: 3781

questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). ). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

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